

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tax Appeal No. 33 of 2000

Commissioner of Income Tax, Ranchi Appellant.

-Versus -

M/s. Bihar Sponge Iron Ltd., Chandil, Singhbhum Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : M/s. Deepak Roshan, Amit Kumar & Rupa Kumari, Advocates.

For the Respondents : M/s. Binod Poddar, Sr. Advocate, Mahendra Choudhary, Darshan Poddar, Piyush Poddar & Amrita Sinha, Advocates.

Order No. 06

Dated :30th August, 2012

Heard learned counsel for the parties.

This appeal has been preferred against the order passed by the I.T.A.T. dated 12.05.2000. While admitting the appeal following question was framed by this Court:-

“Despite the fact that the Assessing Officer and C.I.T.(Appeals) disallowed the claim of the assessee on the ground that the details of the items and the expenditures with respect to the advertisement and promotion were not furnished by the assessee, the Tribunal set aside the orders of the Assessing Officer and C.I.T.(Appeals) without considering this question before it.”

However, learned counsel for the appellant submits that in addition to the above question the appellant is also challenging the finding of the I.T.A.T whereby the I.T.A.T. has set aside the order passed by the A.O. and the C.I.T.(Appeal) in relation to the dis-allowance of Rs. 8,24,007/- which alleged to have been incurred by the Assessee for giving gifts and articles or presentation distributed to the various persons including the employees of the Assessing Company.

We have considered the submission of the learned counsel for the appellant and we are of the considered opinion that so far as the gift articles are concerned, the I.T.A.T held that

though on gift articles there was no Company Logo printed but yet there was Company's official rubber stamp on gift articles, therefore, the gift articles were for the purpose of incentive for promotion of the business. In view of the above reason, the I.T.A.T held that the Assessee is entitled for the additional benefit and confirmed by the lower authority except a sum of Rs.6,454/- which was disowned by the Assessee in computation of the total income. The I.T.A.T relied upon the orders passed in the earlier case and held that there was element of advertisement in distribution of these gift articles, therefore, the Assessee was entitled to the benefit.

Learned I.T.A.T also held that the Assessee has claimed Rs.5,39,343/- on account of entertainment expenditure whereas C.I.T.(Appeal) has taken statutory deduction of Rs.5,000/- only. However, the I.T.A.T held that Section 37(2A) of the I.T.Act will have to be applied in too which has omitted Finance Act, 1992 with effect from 1st April, 1993. Therefore, the I.T.A.T sent the matter back to the Assessing Officer to implement Section 37(2A) after necessary computation.

In view of the above reason, we are of the considered opinion that where the particular articles were the gift articles and were used as incentive for promotion of the business is concerned, that issue has been decided by the I.T.A.T after considering the fact of the case and substantially it is a question of fact. By the same order the I.T.A.T has already held that Section 37(2A) which was omitted by Finance Act, 1992 with effect from 1st April, 1993, has no effect and the Assessee was entitled to the benefit under Section 37(2A) of the I.T.Act.

We are of the considered opinion that no error was committed by the I.T.A.T. in the impugned order.

Therefore, there is no merit in this appeal. The appeal is dismissed.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tax Appeal No. 36 of 2000

M/s. R.M.Singh, Harmu, Ranchi Appellant.

-Versus ---

Commissioner of Income Tax, Central Revenue
Building, Main Road, Ranchi & Anr. Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : Mr.V.Shivnath, Sr. Advocate.
For the Respondents : Mr.Deepak Roshan, Advocate.

Order No. 09

Dated :30th August, 2012

Counsel for the appellant is present but is not ready
with the case.

In the interest of justice, adjourned. No adjournment
will be granted. However, the case will remain on Board at its
Sl.no. and will be taken up on the next day.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

Biswas/SI

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tax Appeal No. 02 of 2001

Commissioner of Income Tax

.... Appellant.

-Versus ---

Metallurgical Engineering Consultants(India) Ltd.

Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : Mr.Deepak Roshan, Sr.S.C.(I.T.).

For the Respondents : Mr.Binod Poddar, Sr. Advocate.

Order No. 06

Dated :30th August, 2012

In view of the judgment delivered in Tax Case No.15/1990 dated 09.02.2012 in the case of M/s. Metallurgical Engineering Consultants(India) Ltd Vrs. Commissioner of Income Tax, Ranchi wherein it has been held that foreign currency is not required to be brought within India before it is spent outside India, therefore, the issue is covered by the decision delivered in the case referred to above.

Hence, this appeal, involving the same issue, is dismissed.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

Biswas/SI

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tax Appeal No. 07 of 2001

Commissioner of Income Tax, Ranchi

.... Appellant.

-Versus ---

M/s.Shakti Spring Industries(P) Ltd.

.... Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : Mr.Deepak Roshan, Sr.S.C.(I.T.).

For the Respondents : Mr.Binod Poddar, Sr. Advocate.

Order No. 06

Dated :30th August, 2012

Learned counsel for the appellant submits that tax effect in the present appeal is less than Rs.2.00 lakhs and the appeal has been preferred on 19.02.2001, therefore, in view of the Instruction no.1985 dated 29.06.2000 this appeal will not survive.

The appeal is, therefore, dismissed in view of the above statement.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

Biswas/SI

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Tax Appeal No. 08 of 2001

Commissioner of Income Tax, Ranchi

.... Appellant.

-Versus ---

M/s.Shakti Spring Industries(P) Ltd.

.... Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : Mr.Deepak Roshan, Sr.S.C.(I.T.).

For the Respondents : Mr.Binod Poddar, Sr. Advocate.

Order No. 05

Dated :30th August, 2012

Learned counsel for the appellant submits that tax effect in the present appeal is less than Rs.2.00 lakhs and the appeal has been preferred on 20.02.2001, therefore, in view of the Instruction no.1985 dated 29.06.2000 this appeal will not survive.

The appeal is, therefore, dismissed in view of the above statement.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

Biswas/SI

